DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-82,396]

Sealy Mattress Company
A Subsidiary of Sealy, Inc.
Including On-Site Leased Workers from
Express Employment Professionals
Portland, Oregon

Notice of Negative Determination
Regarding Application for Reconsideration

By application dated May 16, 2013, United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), Local 330, requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of Sealy Mattress Company, a subsidiary of Sealy, Inc., Portland, Oregon (subject firm). The Department's Notice of Determination was issued on April 15, 2013 and was published in the Federal Register on May 15, 2013 (78 FR 28630).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The negative determination of the TAA petition filed on behalf of workers at the subject firm was based on the Department's findings that, during the relevant period, neither the subject firm nor its customers increased imports of articles like or directly competitive with mattresses or box springs produced by the subject firm; the subject firm did not shift production of mattresses and/or box springs, or like or directly competitive articles, to a foreign country, and did not acquire such production from a foreign country; the subject firm is neither a Supplier nor Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. § 2272(a); and the subject firm has not been publically identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The request for reconsideration stated that the workers of the subject firm should be eligible to apply for TAA because workers at the subject firm were impacted by foreign competition of imported mattresses and box springs. The request also asserts that increased imports should be measured both absolutely and relative to domestic production, as required by applicable regulation. The request further states that the subject firm is a Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. § 2272(a).

The request for reconsideration includes a reference to a blog that reported that imports of mattresses have increased since 2003, import data that shows that imports of bedding foundations (which are directly competitive with box springs) decreased in 2012 from 2011 levels, a list of bedding companies and sawmills that employed workers who are eligible to apply for TAA, and references on-line articles regarding Sealy Mattress.

During the review of the application, the Department carefully reviewed the USW's request for reconsideration (including the attachments), the existing record, and the articles referenced in the application ("Sealy opens first factory in China"; February 2011; http://bedtimesmagazine.com and "Sealy Opens New Toronto Facility"; October 15, 2008; http://furninfo.com).

The request for reconsideration did not supply facts not previously considered; nor provide additional documentation indicating that there was either 1) a mistake in the determination of facts not previously considered or 2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination. Based on these findings, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, D.C., this 7th day of June, 2013

/s/ Del Min Amy Chen

DEL MIN AMY CHEN
Certifying Officer, Office of
Trade Adjustment Assistance
4510-FN-P

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